

AMENDED IN ASSEMBLY APRIL 21, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 17

Introduced by Assembly Member Bonilla

December 1, 2014

An act to add and repeal Section 17053 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 17, as amended, Bonilla. Personal income ~~tax~~: *taxes*: credit: qualified tuition program.

The Personal Income Tax Law ~~and the Corporation Tax Law~~ allow *allows* various credits against the taxes imposed by ~~those laws~~: *that law*.

This bill would, for taxable years beginning on or after January 1, 2016, and before January 1, 2021, allow a credit *under the Personal Income Tax Law* ~~in the~~ *an amount of equal to* 20% of the monetary contributions made to ~~a one or more qualified tuition program programs~~, as defined, by a qualified taxpayer, as defined, *during the taxable year*, not to exceed \$500. This bill would provide ~~for the payment of a credit amount in excess of tax liability upon an appropriation by the Legislature for that purpose~~: *that the credit amount in excess of tax liability is refundable in those years in which an appropriation for that purpose is made by the Legislature*.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 17053 is added to the Revenue and Taxation Code, to read:

17053. (a) (1) For ~~taxable years~~ *each taxable year* beginning on or after January 1, 2016, and before January 1, 2021, there shall be allowed to a qualified taxpayer a credit against the “net tax,” as defined in Section 17039, in an amount as determined by paragraph (2).

(2) The credit amount allowed pursuant to this section shall be the lesser of the following:

(A) Twenty percent of the monetary contributions made by a qualified taxpayer to ~~a qualified tuition program that the qualified taxpayer owns one or more qualified tuition programs~~ during the taxable year.

(B) Five hundred dollars (\$500).

(b) For the purposes of this section:

(1) “Nonqualified withdrawal” means any payment or distribution from a qualified tuition program that is subject to additional tax pursuant to Section 529(c)(6) of the Internal Revenue Code, relating to additional tax.

(2) “Qualified taxpayer” means an individual who, on behalf of a beneficiary, contributes money to a qualified tuition program for which the individual is the account owner and has one of the following annual adjusted gross incomes:

~~(A) If the qualified taxpayer’s filing status is single, married filing separately, or domestic registered partner filing separately, one hundred thousand dollars (\$100,000) or less.~~

~~(B) If the qualified taxpayer files as a head of household, surviving spouse, as defined in Section 17046, married filing jointly, or domestic partner filing jointly, two hundred thousand dollars (\$200,000) or less.~~

(A) In the case of a single individual or married individual filing a separate return, one hundred thousand dollars (\$100,000) or less.

(B) In the case of a head of household or surviving spouse, as defined in Section 17046, or a married couple filing a joint return, two hundred thousand dollars (\$200,000) or less.

(3) “Qualified tuition program” means a qualified tuition program, as defined in Section 529 of the Internal Revenue Code.

1 ~~(e) In the case of married taxpayers or registered domestic~~
2 ~~partners who file separate returns, the credit may be taken by either~~
3 ~~spouse or registered domestic partner or divided equally between~~
4 ~~the spouses or registered domestic partners.~~

5 ~~(d)~~

6 (c) When a qualified taxpayer receives a nonqualified
7 withdrawal, in addition to any tax imposed under this part, an
8 additional tax shall be imposed in an amount that is the lesser of
9 10 percent of that nonqualified withdrawal or the total amount of
10 credit allowed under subdivision (a) for the taxable year and all
11 prior taxable years in which the qualified taxpayer was allowed a
12 credit pursuant to this section.

13 ~~(e)~~

14 (d) That portion of any credit allowed under this section that is
15 in excess of tax liability shall *be credited against other amounts*
16 *due, if any, and the balance, if any,* upon an appropriation by the
17 Legislature, be ~~paid~~ *refunded* to the qualified taxpayer.

18 ~~(f)~~

19 (e) (1) The Franchise Tax Board may prescribe rules, guidelines,
20 or procedures necessary or appropriate to carry out the purposes
21 of this section.

22 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of
23 Division 3 of Title 2 of the Government Code does not apply to
24 any standard, criterion, procedure, determination, rule, notice, or
25 guideline established or issued by the Franchise Tax Board
26 pursuant to this section.

27 ~~(g)~~

28 (f) This section shall remain in effect only until December 1,
29 2021, and as of that date is repealed.

30 SEC. 2. This act provides for a tax levy within the meaning of
31 Article IV of the Constitution and shall go into immediate effect.